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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.            | CONFIRMATION NO.       |
|---|-------------|----------------------|--------------------------------|------------------------|
| 10/761,939  | 01/21/2004  | Hans Dewitte         | ESKO-042                       | 2160                   |
| 21921   | 7590        | 02/22/2008           |                                |                        |
| DOV ROSENFELD<br>5507 COLLEGE AVE<br>SUITE 2<br>OAKLAND, CA 94618 |             |                      | EXAMINER<br>BRINICH, STEPHEN M |                        |
|   |             |                      | ART UNIT<br>2625               | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>02/22/2008        | DELIVERY MODE<br>PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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| APPLICATION NO./<br>CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR /<br>PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
| 10761939                        | 1/21/04     | DEWITTE, HANS                                     | ESKO-042            |

DOV ROSENFELD  
5507 COLLEGE AVE  
SUITE 2  
OAKLAND, CA 94618

**EXAMINER**

Stephen M. Brinich

| ART UNIT | PAPER    |
|----------|----------|
| 2625     | 20080213 |

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

Commissioner for Patents

|                              |                                |                               |  |
|------------------------------|--------------------------------|-------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/761,939  | Applicant(s)<br>DEWITTE, HANS |  |
|                              | Examiner<br>Stephen M. Brinich | Art Unit<br>2625              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 06 December 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-92 is/are pending in the application.
- 4a) Of the above claim(s) 24-58 and 60-92 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 59 is/are allowed.
- 6) ☒ Claim(s) 1-9 and 13-23 is/are rejected.
- 7) ☒ Claim(s) 10-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/19/04, 1/9/06, 6/28/06</u> .                                | 6) <input type="checkbox"/> Other: _____                          |

DETAILED ACTION

*Election/Restrictions*

1. Applicant's election without traverse of claims 1-23 & 59 in the reply filed on 12/6/07 is acknowledged.

*Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-9 & 13-23 are rejected under 35 U.S.C. 102(e) as being anticipated by De La Torre (US 6741735).

Re claims 1-4, 8, 13, 16-18, & 22, De La Torre discloses (Figure 6; column 5, lines 8-21) a flexographic printing plate having a stochastic line screen pattern of perforations.

Concerning the recitations of intended functional elements (i.e. the statement that the perforations are designed to not receive or carry ink on the plate, or that lines fill in to a certain extent when the plate is used), while features of an

apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. (In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997)).

Re claims 5, 14-15, & 19, De La Torre discloses (Figures 2-3) the use of 300-1200 dot per inch periodic patterning (the latter corresponding to a pitch of approximately 32 micrometers).

Re claims 6-7 & 20-21, this line screen pattern is at a 45 degree screen angle.

Re claims 9 & 23, the line screen pattern forms a pattern having an integer multiple (one) of its frequency.

*Allowable Subject Matter*

4. Claim 59 is allowed.

5. Claims 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Re claim 10, the art of record does not teach or suggest the recited supercell structure.

Re claims 11-12, the art of record does not teach or suggest the recited relationship between the recited gray levels and the recited perforation distribution.

Re claim 59, the art of record does not teach or suggest the recited gray level mapping and placement of grooves on the relief plate.

*Conclusion*

6. Any inquiry concerning the contents of this communication or earlier communications from the examiner should be directed to Stephen M. Brinich at, 571-272-7430.

Any inquiry relating to the status of this application, entry of papers into this application, or other any inquiries of a general nature concerning application processing should be directed to the Tech Center 2600 Customer Service center at 571-272-2600 or to the USPTO Contact Center at 800-786-9199 or 571-272-1000.

The examiner can normally be reached on weekdays 8:00-5:30, alternate Fridays off.

The examiner's unit designation has been changed from "Art Unit 2624" to "Technology Division 2625" (as of March 20, 2006).


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Art Unit: 2625

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If attempts to contact the examiner and the Customer Service Center are unsuccessful, supervisor David Moore can be contacted at 571-272-7437.

Faxes pertaining to this application should be directed to the Tech Center 2600 official fax number, which is 571-273-8300.

Hand-carried correspondence may be delivered to the Customer Service Window, located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

  
Stephen M Brinich  
Examiner  
Technology Division 2625

smb  
February 13, 2008